

Message Text

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12

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AF/E:GGAY

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R 062215Z SEP 74

FM SECSTATE WASHDC

TO AMEMBASSY NAIROBI

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E.O. 11652: N/A

TAGS: EINV, KE

SUBJ: USG/GOK BILATERAL RE OPIC INVESTMENT GUARANTIES

REF: NAIROBI 6716

1. OPIC CONCURS WITH EMBASSY VIEW THAT GOK MISINTERPRETATION OF PARAGRAPH 4 OF USG/GOK BILATERAL AGREEMENT RE INVESTMENT GUARANTIES SHOULD BE CORRECTED AS SOON AS POSSIBLE.

2. UNCERTAINTY AS TO OPIC'S ABILITY TO UTILIZE LOCAL CURRENCY RECEIVED IN CONNECTION WITH CLAIMS RESULTING FROM THIS MISINTERPRETATION COULD IMPAIR THE ORDERLY CONTINUANCE OF SAID INVESTMENT GUARANTY PROGRAM.

3. PARAGRAPH 4 OF THE BILATERAL, WHICH BEGINS BY GRANTING TO THE LOCAL CURRENCY TRANSFERRED TO USG THE SAME STATUS AS WHEN SUCH CURRENCY WAS HELD BY U.S. CITIZEN, PROVIDES FURTHER "..., AND SUCH CURRENCY MAY IN ANY EVENT BE USED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR ANY OF ITS EXPENDITURES IN KENYA." THIS PROVISION CLEARLY MEANS THAT REGARDLESS OF THE STATUS OF THE LOCAL CURRENCY WHILE IN THE HANDS OF U.S. CITIZEN, ONCE SUCH LOCAL CURRENCY IS TRANSFERRED TO USG, IT CAN BE USED BY

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USG FOR ANY OF ITS EXPENDITURES IN KENYA. SIMILAR CLAUSES CAN

BE FOUND IN ALL OTHER OPIC BILATERAL AGREEMENTS, AND NO OTHER GOVERNMENT HAS EVER QUESTIONED OUR RIGHT TO USE LOCAL CURRENCY WITHIN THAT COUNTRY WHEN RECEIVED AS A RESULT OF CLAIMS CONTEMPLATED BY THE BILATERAL.

4. OPIC SUGGESTS THAT EMBASSY INFORMALLY APPROACH GOK OFFICIALS WHO EXPRESSED VIEWS PER REFTEL WITH A VIEW TOWARD CORRECTING THEIR INTERPRETATION. IF THIS CANNOT BE ACCOMPLISHED ON INFORMAL COOPERATIVE BASIS OPIC WOULD WELCOME EMBASSY REPORT OF GOK OFFICIALS' POSITION AND WILL THEN FORWARD DRAFT TEXT OF LETTER TO THE EMBASSY, WHICH EMBASSY CAN USE IF APPROPRIATE, TO SEND TO SAID GOK OFFICIALS. KISSINGER

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Message Attributes

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